(3)

SUPREME COURT OF THE UNITED STATES

FLORIDA *v.* CHARLES LEWIS BURR

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

No. 89-1320. Decided June 11, 1990

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted. The judgment is vacated and the case is remanded to the Supreme Court of Florida for further consideration in light of *Dowling* v. *United States*, 493 U. S. —— (1990).

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, dissenting.

For the reasons stated by JUSTICE STEVENS, I agree that the judgment of the Florida Supreme Court should not be vacated. In any event, adhering to my views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, see *Gregg* v. *Georgia*, 428 U. S. 153, 227 (1976), I would direct that the proceedings on remand be circumscribed such that the State may not impose the death sentence.

JUSTICE BLACKMUN dissents.